

## **REMARKS/ARGUMENTS**

In the specification paragraph 015 has been amended to correct a misspelling.

Claims 1 and 3-8 remain in this application. Claim 1 has been amended to include the subject matter of claim 3, indicated as being allowable, as well as to clarify the interaction between the distal end of the cylindrical member and the flat surface portion and to correct the misstatement in the penultimate line of the claim regarding the anchoring screw axis, noted by the examiner. Claims 4 and 5 have been renumbered and claim 7 has been written in independent form with the clarified interaction between the distal end of the cylindrical member and the flat surface portion. Claim 13 has been rewritten to call for the sealing surface of the distraction fixture 20 to be tapered with a diameter which decreases in a direction going toward the distal end as set forth in lines 11 et seq. of paragraph 017. Claims 2 and 9-14 have been withdrawn.

The examiner has acknowledged that claims 3-6 are directed to allowable subject matter.

Applicants affirm the election of Species B, claims 1 and 3-8 and note that claims 2 and 9-14 have been withdrawn as a result of the restriction requirement.

In view of the examiner's earlier restriction requirement, applicants retain the right to present claims 2 and 9-14 in a divisional application.

As alluded to above, the axis of the anchoring screw body in lines 17-18 of claim 1, as well as in the last line of claim 2, has been amended to "longitudinal" and thus the rejection of claims 1 and 3-8 under 35 U.S.C. 112, second paragraph, as being indefinite has been obviated and should be withdrawn.

Claims 1, 7 and 8 were rejected under 35 U.S.C. 102(b) s being anticipated by Carchidi et al. (US 5,899,940). The examiner noted that the reaction element 14 has a flat

surface comprising the distal most surface of the reaction element. Claim 1 has been amended to include the allowable subject matter of claim 3 and thus is believed to be allowable. Claim 7 has been rewritten in independent form and calls for a reaction element having a flat surface portion "for engagement with the distal end of the generally cylindrical member". The claim also calls for the flat surface portion to extend along the selected axis a distance greater than the diameter of the distal end of the generally cylindrical member, while claim 8, dependent on claim 7, calls for the flat surface portion to extend approximately twice the diameter of the distal end. The patent to Carchidi et al., on the other hand, shows a distal end 16e of jack screw 16 for engagement with the closed end of the bore of plug or reaction element 14, that is, a distance essentially the same as the diameter of the distal end 16e. There is no suggestion to make the flat portion extend a greater length since they are matched in size. Thus the structures of claims 7 and 8 are neither shown in the 35 U.S.C. 102(b) sense or suggested in the 35 U.S.C. 103 sense and should be allowable and such action is respectfully requested.

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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Attachments